THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.6593 of 2006

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DATED:03-04-2006

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BETWEEN

Smt Noorunnissa Begum and others.

…PETITIONER

AND

The Assistant City Planner, Circle No.5, Municipal Corporation of Hyderabad, Khairatabad, Hyderabad and another.

…RESPONDENTS

THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.6593 of 2006

ORDER:

Petitioners seek a Writ of Mandamus to declare the action of the first respondent in asking the petitioners to surrender their shop Nos. 6-3-699, 6-3-

699/2, 6-3-999/2/1, 6-3-700 and 6-3-699/2, situated at Punjagutta, Hyderabad, and trying to demolish the same without following due process of law, as illegal and arbitrary.

The case of the petitioners is that they are the absolute owners and possessors of the above said shops situated at Punjagutta, Hyderabad and they are running their shops, hotels, etc., since a long time and eking out their livelihood with the income derived from their business. It is stated that on 30.03.2006 the employees of the respondents visited the shops of petitioners and asked them to vacate the premises by 05-04-2006 and threatened to demolish the same for the purpose of road widening.

The learned counsel for the petitioners submits that for the purpose of widening the road the respondents earmarked the structures belonging to the petitioners and the respondents are proposing to demolish the same without following due procedure prescribed in law. He further submits that even under the Andhra Pradesh Municipalities Act, 1965 (for short 'the Act') without acquiring the lands of the private citizens, portion of any property cannot be taken away for the purpose of road widening, either by way of private negotiations or by way of initiating proceedings under the Act. He further submits that the petitioners have not encroached any road and they have constructed the said shops as per the approved plan only.

No doubt widening/laying of the road is in the public interest but while laying the road, if any property of private individual is coming in the way, it is for the respondents to acquire the same by following due process of law. This Court disposed of a number of writ petitions directing the respondents not to demolish the houses of the private citizens without following due process of law or private negotiations.

Having regard to the facts and circumstances of the case,
the respondents are directed not to demolish or take away any portion of the

properties of the petitioners and not to dispossess them without following due process of law under Section 172(2) or 174 of the Act.

The writ petition is accordingly disposed of.

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V. ESWARAIAH, J

Dated: 03-04-2006

sj